

WJAG
NEWS TALK 78

KEXL
Great Hits 106.7

Box 789 • Norfolk, Nebraska 68702-0789

□

2004/06/21 03:20:49

Ms. Marlene H. Dortch
 Secretary
 Federal Communications Commission
 445 12th Street, S.W.
 Washington, D.C. 20445

Proceeding Comment: **MB Docket No. 04-160**

Attention: FCC Chairman Powell & Commissioners

When the FCC authorized a Satellite Digital Audio Radio Service, it intended a national service would not offer local programming. Unfortunately, the satellite radio industry has repeatedly tried to circumvent the Commissions intent. While publicly claiming it had no intention of offering localized content, one of the satellite companies pursued a patent for technology that would allow it to insert localized programming into its ground based repeater network the Commission intended these repeaters to be used only to fill in interference gaps for the national satellite programming.

For nearly 19 months XM radio cloaked its true intentions and only when their plot was publicly exposed did they relent and sign an agreement that their terrestrial repeaters would not be used for local programming. But just a few weeks later the company announced that it would indeed offer local programming by earmarking some of its national channels for localized traffic and weather information. This announcement clearly violated the spirit of the agreement and the original intent of the Commissions authorization for satellite service.

On February 27th, Sirius Satellite Radio announced it too would designate some of its national channel capacity for local programming, meaning both companies were entering into a concerted effort to circumvent the Commission's intent of authorizing a national-only satellite radio service. Frankly, I thought the FCC was ill-advised to authorize the service in the first place. Given the fact that there are over 12,000 broadcast licenses in America today, it is hard to imagine that there is such a pressing need for this service. To allow satellite services the ability to provide local insertions will most definitely adversely affect the local hometown radio stations who are limited in their coverage, yet who strive to serve their local and area constituency with local news, public

affairs, and entertainment that cannot possibly be provided by the satellite radio industry. Nor would they want to do so except in the largest most lucrative markets.

would urge each of you as appointed members of the Commission to establish rules that would clearly limit the ability of satellite radio licensees to provide locally based content on their national distribution channels. I wholeheartedly support the National Association of Broadcasters petition for declaratory ruling on the matter.

The terrestrial licensing process has provided for broadcast allocations and licenses with specific geographic/technical restrictions. This decentralized form of broadcasting holds us responsible to serve the "public interest" of the listeners in these specific areas. Satellite Radio has no public interest limits or ownership limits. They have no *local* investment in their communities. On the other hand, WJAG AM & KEXL FM have over 114 years of broadcast experience. WJAG AM alone is now, perhaps arguably, the oldest continuously owned, same-family operation in the nation. Although I realize that the target markets must jealously sought by satellite broadcasters would fall into the top 100, their signal and impact on all markets cannot be ignored. Our ability to serve our respective audience in Northeast Nebraska is directly tied to the sale of advertising since, unlike the subscription services, we do not charge for our services. Free, over the air radio broadcasting should not be jeopardized through the creation of satellite radio services.

Let me be specific in what is at stake. WJAG AM & KEXL FM are, in my opinion, somewhat unique these days in that we maintain two full-time news people, a full-time sports director, a staff of 14 other full-time and five part-time people in an effort to serve our listeners and advertisers. We currently support the following activities and enterprises both financially and in term of news coverage, public service announcements and promotional tie-ins:

- Norfolk Arts Center and fund drive
- Elkhorn Valley Museum and fund drive
- Norfolk Family YMCA and fund drive
- Northeast Community College Foundation Scholarship Fund
- Norfolk Area United Way
- Bright Horizons Domestic Violence Victim Center
- Diamond Dick District of the Boy Scouts of America
- Northeast Nebraska Economic & Development District (and fund raising effort)
- Northeast Community College AG complex fund drive

The list goes on. In just the last 12 months our stations have donated over \$260,000 of cash and airtime to many such worthy causes!

We have the responsibility of reporting to our listeners the good, the bad, the ugly. We do so with a commitment to accuracy and professionalism:

- U.S. Bank holdup and murder of five people
- The dumping of a two day old baby over the mill dam in Norfolk just last week
- The completion of a \$1.2 million economic development fund drive

These are the beats and the service no satellite broadcaster can or would probably even want to address. But we do this because it is our charge and responsibility to our listeners.

atellite Radio wishes to insert local programming only in those areas that bring them the quickest cash return, e.g. traffic reports, weather forecasts. I'd be curious to see where their coverage would be in the event of a devastating tornado such as the one that hit Hallum, NE last month. Sure, they could hire someone to fly in or buy some local talent to cover the initial story, but what about the stories of the people most directly affected and the follow-up to see what they need and where they are at days or even weeks later.

Finally, would the new satellite broadcasters be obligated under any FCC broadcast authority to abide by the same rules and regulations with which we must abide, e.g. public file, indecency, EEO. Please, just because the technology exists to address a satellite signal to individual receivers does not mean that it should be used to unfairly compete against a system that has been in place and has served the public interest for over 80 years. To hold satellite radio to a separate standard, while granting them a blatantly unfair competitive advantage, establishes an undeniably unfair and unequal playing field between satellite and terrestrial broadcasters. This not something this or any other FCC should be championing.

Respectfully,

Robert G. "Robb" Thomas
V.P.-General Manager
WJAG AM & KEXL FM
P.O. Box 789
Norfolk, NE 68702-0789
Ph: 402.371.0780
Fax: 402.371.6303
rthomas@wjag.com